

_____ BILL NO. _____

INTRODUCED BY _____
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT MOTOR VEHICLE LIABILITY INSURANCE FOR NONCOMMERCIAL MOTOR VEHICLES COVERS DRIVERS AND NOT VEHICLES; PROVIDING THAT THE TYPE AND NUMBER OF VEHICLES OWNED BY A PERSON OR PERSONS INSURED UNDER THE POLICY MAY NOT BE USED AS A BASIS FOR DETERMINING THE PREMIUM TO BE PAID FOR ANY PERSON INSURED UNDER THE POLICY OR USED AS A BASIS FOR AN INSURANCE COVERAGE LIMITATION, EXCLUSION, OR REDUCTION AS TO ANY PERSON INSURED UNDER THE POLICY; AMENDING SECTIONS 33-23-203, 33-23-211, 33-23-214, 33-23-217, 61-6-103, 61-6-132, 61-6-134, 61-6-135, AND 61-6-139, MCA; AND PROVIDING AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 33-23-203, MCA, is amended to read:

"33-23-203. Limitation of liability under motor vehicle liability policy. (1) Unless a motor vehicle liability policy specifically provides otherwise, the limits of insurance coverage available under each part of the policy must be determined as follows, regardless of the number of ~~motor vehicles~~ persons insured under the policy, the number of policies issued by the same company covering the insured, or the number of separate premiums paid:

(a) the limits of insurance coverages available for any one accident are the limits specified for each coverage available under the policy insuring the ~~motor vehicle~~ insured person involved in the accident;

~~(b) if the motor vehicle involved in the accident is not insured under a policy, the limits of the insurance coverages available for any one accident are the highest limits of the coverages specified under one policy for one motor vehicle insured under that policy; and~~

~~_____ (c) the limits of the coverages specified under one policy or under more than one policy issued by the same company may not be added together to determine the limits of insurance coverages available under the policy or policies for any one accident.~~

(2) A motor vehicle liability policy may also provide for other reasonable limitations, exclusions, reductions of coverage, or subrogation clauses that are designed to prevent duplicate payments for the same

1 element of loss under the motor vehicle liability policy or under another casualty policy that provides coverage
2 for an injury that necessitates damages or benefit payments or to prevent the adding together of insurance
3 coverage limits in one policy or from more than one policy issued by the same company.

4 (3) An insurer that charges a premium for a specified coverage shall clearly inform or notify the insured
5 in writing of the limits of the coverage with respect to the premium charged and whether the coverage from one
6 policy ~~or motor vehicle~~ may be added to the coverage of another policy ~~or motor vehicle~~.

7 (4) Nothing in this section is intended to create coverage for a ~~motor vehicle that~~ person who would
8 otherwise be uninsured.

9 (5) The type and number of motor vehicles owned by a person insured under a policy may not be used
10 as a basis for an insurance coverage limitation or for an exclusion or reduction as to any person insured under
11 the policy."

12
13 **Section 2.** Section 33-23-211, MCA, is amended to read:

14 **"33-23-211. Limitations on basis for cancellation.** (1) A notice of cancellation of a motor vehicle
15 liability policy is effective only if it is based on one or more of the following reasons:

16 (a) nonpayment of premium; or

17 (b) the driver's license or motor vehicle registration of ~~the a~~ named insured or of any other operator who
18 either resides in the same household or customarily operates a motor vehicle owned by a person insured under
19 the policy has been under suspension or revocation during the policy period or, if the policy is a renewal, during
20 its policy period or the 180 days immediately preceding its effective date.

21 (2) This section does not apply to any policy or coverage ~~which that~~ which has been in effect less than 60 days
22 at the time notice of cancellation is mailed or delivered by the insurer unless it is a renewal policy.

23 (3) Modification of motor vehicle physical damage coverage by the inclusion of a deductible not
24 exceeding \$100 may not be ~~deemed~~ considered a cancellation of the coverage or of the policy.

25 (4) This section does not apply to nonrenewal of a motor vehicle liability policy."
26

27 **Section 3.** Section 33-23-214, MCA, is amended to read:

28 **"33-23-214. Advance notice required for nonrenewal -- exceptions.** (1) An insurer shall renew a
29 motor vehicle liability policy unless it mails or delivers to the named insured, at the address shown in the policy,
30 at least 45 days' advance notice of its intention not to renew. The notice must contain or be accompanied by a

1 statement that upon written request made not later than 1 month following the termination date of the policy of
2 the named insured mailed or delivered to the insurer, the insurer will notify the insured in writing, within 15 days
3 of the insured's request, of the reason or reasons for the nonrenewal.

4 (2) Notwithstanding the failure of an insurer to comply with this section, the motor vehicle liability policy
5 must terminate on the effective date of any other replacement or succeeding motor vehicle liability policy
6 procured by the insured with respect to any ~~motor vehicle person~~ designated as an insured in both policies.

7 (3) This section does not apply ~~where~~ if the named insured ~~has or insureds~~ failed to discharge when
8 due ~~any of the insured's obligations~~ an obligation in connection with the payment of premiums for the policy or
9 the renewal of the policy or any installment payments for the policy, whether payable directly to the insurer or
10 its insurance producer or indirectly under any premium finance plan or extension of credit.

11 (4) This section does not apply in any of the following cases:

12 (a) if the insurer has manifested its willingness to renew;

13 (b) in case of nonpayment of premium. However, notwithstanding the failure of an insurer to comply with
14 this section, the policy must terminate on the effective date of any other insurance policy with respect to any
15 ~~motor vehicle person~~ designated as an insured in both policies.

16 (c) if the insured's insurance producer or broker has secured other coverage acceptable to the insured
17 at least 20 days prior to the anniversary date of the policy or termination of the policy period.

18 (5) Renewal of a motor vehicle liability policy does not constitute a waiver or estoppel with respect to
19 grounds for cancellation ~~which that~~ existed before the effective date of the renewal.

20 (6) A notice of nonrenewal of a motor vehicle liability policy under this section, for a policy that has a
21 term of less than 6 months, is effective only when based on one or more of the reasons listed in 33-23-211."

22
23 **Section 4.** Section 33-23-217, MCA, is amended to read:

24 **"33-23-217. Return of unearned premiums.** If an insurer cancels a motor vehicle policy covering a
25 commercial motor vehicle or the owner of a private motor vehicle for nonpayment of a premium, the insurer shall
26 process the cancellation on a pro rata basis. The insurer shall return whatever gross unearned premium is due
27 under the motor vehicle policy to the insured. For purposes of this section, the term "unearned premium" means
28 that part of the original premium, including deposits, not yet earned by the insurer and ~~therefore~~ due to the
29 insured if the policy is canceled."
30

1 **Section 5.** Section 61-6-103, MCA, is amended to read:

2 **"61-6-103. Motor vehicle liability policy defined.** (1) A "motor vehicle liability policy", as the term is
3 used in this part, means an owner's or operator's policy of liability insurance, certified as provided in 61-6-133
4 or 61-6-134 as proof of financial responsibility and issued, except as otherwise provided in 61-6-134, by an
5 insurance carrier ~~duly~~ authorized to transact business in this state, to or for the benefit of the person or persons
6 named ~~therein~~ as ~~insured~~ insureds.

7 (2) The owner's policy of liability insurance must:

8 (a) designate by explicit description or by appropriate reference all ~~motor vehicles~~ named insureds with
9 respect to which coverage is ~~thereby to be~~ granted; and

10 (b) insure the person or persons named ~~therein~~ and any other person, ~~as insured~~, using any motor
11 vehicle or motor vehicles with the express or implied permission of the named insured; against loss from the
12 liability imposed by law for damages arising out of the ownership, maintenance, or use of the motor vehicle or
13 motor vehicles within the United States ~~of America~~ or ~~the Dominion of~~ Canada, ~~subject to limits exclusive of~~
14 ~~interest and costs, with respect to each motor vehicle~~, as follows:

15 (i) \$25,000 because of bodily injury to or death of one person in any one accident and subject to ~~said~~
16 the limit for one person;

17 (ii) \$50,000 because of bodily injury to or death of two or more persons in any one accident; and

18 (iii) \$10,000 because of injury to or destruction of property of others in any one accident.

19 (3) An operator's policy of liability insurance must insure the person or persons named as insured
20 ~~therein~~ against loss from the liability imposed upon ~~him~~ them by law for damages arising out of ~~the~~ their use by
21 ~~him~~ of any motor vehicle not owned by ~~him~~ them, within the same territorial limits and subject to the same limits
22 of liability as are set forth ~~above~~ in subsection (2) with respect to the operator's policy of liability insurance.

23 (4) A motor vehicle liability policy must state the name and address of the named insured or insureds,
24 the coverage afforded by the policy, the premium charged ~~therefor~~, the policy period, and the limits of liability
25 and must contain an agreement or be endorsed that insurance is provided ~~thereunder~~ in accordance with the
26 coverage defined in this part ~~as respects~~ with respect to bodily injury and death or property damage, or both,
27 and that the policy is subject to all the provisions of this part.

28 (5) A motor vehicle liability policy need not insure any liability under any workers' compensation law or
29 any liability on account of bodily injury to or death of an employee of ~~the~~ an insured while engaged in the
30 employment, other than domestic, of the insured or while engaged in the operation, maintenance, or repair of

1 a motor vehicle or any liability for damage to property owned by, rented to, in charge of, or transported by ~~the~~
2 an insured.

3 (6) A motor vehicle liability policy is subject to the following provisions, which need not be contained
4 ~~therein~~ in the policy:

5 (a) The liability of the insurance carrier with respect to the insurance required by this part becomes
6 absolute whenever injury or damage covered by the motor vehicle liability policy occurs. The policy may not be
7 canceled or annulled as to the liability by any agreement between the insurance carrier and the insured after the
8 occurrence of the injury or damage. ~~No~~ A statement made by ~~the~~ an insured or on ~~his~~ an insured's behalf ~~and~~
9 ~~no~~ or a violation of the policy may not defeat or void the policy.

10 (b) The satisfaction by ~~the~~ an insured of a judgment for the injury or damage may not be a condition
11 precedent to the right or duty of the insurance carrier to make payment on account of the injury or damage.

12 (c) The insurance carrier has the right to settle any claim covered by the policy, and if the settlement
13 is made in good faith, the amount is deductible from the limits of liability specified in subsection (2)(b).

14 (d) The policy, the written application ~~therefor~~, if any, and any rider or endorsement ~~which~~ that does not
15 conflict with the provisions of this part constitute the entire contract between the parties.

16 (7) A motor vehicle policy is not subject to cancellation, termination, nonrenewal, or premium increase
17 due to injury or damage incurred by ~~the~~ an insured or operator unless the insured or operator is found to have
18 violated a traffic law or ordinance of the state or a city, is found negligent or contributorily negligent in a court
19 of law or by the arbitration proceedings contained in ~~chapter 5 of Title 27, chapter 5,~~ chapter 5, or pays damages to another
20 party, whether by settlement or otherwise. In no event may a premium be increased during the term of the policy
21 unless there is a change in exposure.

22 (8) ~~Any~~ A policy ~~which~~ that grants the coverage required for a motor vehicle liability policy may also
23 grant any lawful coverage in excess of or in addition to the coverage specified for a motor vehicle liability policy,
24 and the excess or additional coverage is not subject to the provisions of this part. With respect to a policy ~~which~~
25 that grants the excess or additional coverage, the term "motor vehicle liability policy" applies only to that part of
26 the coverage ~~which~~ that is required by this section.

27 (9) ~~Any~~ A motor vehicle liability policy may provide that ~~the~~ an insured shall reimburse the insurance
28 carrier for any payment the insurance carrier would not have been obligated to make under the terms of the
29 policy except for the provisions of this part.

30 (10) ~~Any~~ A motor vehicle liability policy may provide for the prorating of the insurance ~~thereunder~~ with

1 other valid and collectible insurance.

2 (11) The requirements for a motor vehicle liability policy may be fulfilled by the policies of one or more
3 insurance carriers, ~~which if the~~ policies together meet ~~such the~~ requirements.

4 (12) ~~Any~~ A binder issued pending the issuance of a motor vehicle liability policy fulfills the requirements
5 for ~~such~~ a policy.

6 (13) A reduced limits endorsement may not be issued by ~~any a~~ company to be attached to ~~any a~~ policy
7 issued in compliance with this section."
8

9 **Section 6.** Section 61-6-132, MCA, is amended to read:

10 **"61-6-132. Alternate methods of giving proof.** (1) Proof of financial responsibility when required under
11 this part with respect to the owner of a motor vehicle or with respect to a person who is not the owner of a motor
12 vehicle may be given by filing:

13 (a) a certificate of insurance as provided in 61-6-133 or 61-6-134;

14 (b) a bond as provided in 61-6-137;

15 (c) a certificate or deposit of money or securities as provided in 61-6-138; or

16 (d) a certificate of self-insurance, as provided in 61-6-143, supplemented by an agreement by the
17 self-insurer that, with respect to accidents occurring while the certificate is in force, ~~he the self-insurer~~ will pay
18 the same judgments and in the same amounts that an insurer would have been obligated to pay under an
19 owner's motor vehicle liability policy if it had issued ~~such~~ a policy to ~~said the~~ self-insurer.

20 (2) ~~No~~ A motor vehicle ~~shall~~ may not be or continue to be registered in the name of any person required
21 to file proof of financial responsibility unless ~~such the~~ proof ~~shall be~~ is furnished for ~~such motor vehicle the~~
22 person."
23

24 **Section 7.** Section 61-6-134, MCA, is amended to read:

25 **"61-6-134. Certificate furnished by nonresident as proof.** (1) ~~The~~ A nonresident ~~owner of a motor~~
26 ~~vehicle not registered in this state~~ may give proof of financial responsibility by filing with the department a written
27 certificate or certificates of an insurance carrier authorized to transact business in the state in which the ~~motor~~
28 ~~vehicle or motor vehicles described in such certificate is registered, or if such nonresident does not own a motor~~
29 ~~vehicle, then in the state in which the insured resides, provided such if the~~ certificate otherwise conforms to the
30 provisions of this part, and the department shall accept the ~~same~~ certificate upon the condition that ~~said the~~

insurance carrier complies with the following provisions with respect to the policies ~~so~~ certified:

(a) ~~Said The~~ insurance carrier shall execute a power of attorney authorizing the department to accept service on its behalf of notice or process in any action arising out of a motor vehicle accident in this state.

(b) ~~Said The~~ insurance carrier shall agree in writing that ~~such the~~ policies ~~shall be deemed~~ are considered to conform with the laws of this state relating to the terms of motor vehicle liability policies issued ~~herein in this state.~~

(2) If ~~any an~~ insurance carrier ~~that is~~ not authorized to transact business in this state, ~~which and that~~ has qualified to furnish proof of financial responsibility; defaults in any ~~said~~ undertaking or agreements, the department ~~shall~~ may not thereafter after the default accept as proof any certificate of ~~said the~~ carrier whether ~~theretofore~~ previously filed or ~~thereafter~~ tendered as proof after the default, ~~so~~ as long as ~~such the~~ default continues."

Section 8. Section 61-6-135, MCA, is amended to read:

"61-6-135. Notice of cancellation or termination of certified policy. When an insurance carrier has certified a motor vehicle liability policy under 61-6-133 or a policy under 61-6-134, the insurance ~~so~~ certified ~~shall~~ may not be canceled or terminated until at least 10 days after a notice of cancellation or termination of the insurance ~~so~~ certified ~~shall be~~ is filed in the office of the department, except that ~~such~~ a policy subsequently procured and certified ~~shall~~ must on the effective date of its certification terminate the insurance previously certified with respect to any ~~motor vehicle person~~ designated as an insured in both certificates."

Section 9. Section 61-6-139, MCA, is amended to read:

"61-6-139. Owner permitted to give proof for others. ~~Whenever any~~ If a person required to give proof of financial responsibility ~~hereunder~~ under this part is or later becomes an operator in the employ of any owner, or is or later becomes a member of the immediate family or household of the owner, the department shall accept proof given by ~~such the~~ owner in lieu of proof by ~~such the~~ other person to permit ~~such the~~ other person to operate a motor vehicle ~~for which owned by the owner has given proof as herein provided.~~ The department shall designate the restrictions imposed by this section on the face of ~~such the~~ person's license."

NEW SECTION. Section 10. Basis for determining premiums. The type and number of private motor vehicles owned by a person or persons insured under a motor vehicle liability policy may not be used as a basis

1 for determining the premium to be paid for any person insured under the policy against loss resulting from liability
2 imposed by law for bodily injury or death suffered by a person arising out of the ownership, maintenance, or use
3 of a private motor vehicle. Motor vehicle liability insurance covers drivers rather than motor vehicles, and it is
4 the drivers, not the vehicles driven, that must be insured.

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6 **NEW SECTION. Section 11. Codification instruction.** [Section 10] is intended to be codified as an
7 integral part of Title 33, chapter 23, part 2, and the provisions of Title 33, chapter 23, part 2, apply to [section 10].

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9 **NEW SECTION. Section 12. Applicability.** [This act] applies to insurance policies issued or renewed
10 after October 1, 2005.

11 - END -